

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

CHARLES. ST. JOHN,  
Plaintiff

vs.

REGIS CORPORATION;  
Defendant

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C. A. No. H-06-2339

**PLAINTIFF'S AMENDED MOTION FOR LEAVE  
TO EXTEND THE EXPERT WITNESS DEADLINES**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, CHARLES ST. JOHN, Plaintiff herein, and pursuant to Rule 16 of the Federal Rules of Rules of Civil Procedure, respectfully requests leave of Court to file a Motion to Extend the Expert Witness Deadlines. In support of same, Plaintiff would show the Court the following.

**I.**

**Background**

1. This case arises from an incident wherein Plaintiff after receiving a pedicure service from the Regis Signature Salon located in the New York-New York Hotel in Las Vegas Nevada, was diagnosed with a methocilin resistant staph infection. Plaintiff filed suit against Defendant, Regis Corporation, on April 11, 2006, in the Harris County District Court. On July 13, 2006, Defendant Regis Corporation filed a Notice of Removal and this case was subsequently removed to Federal Court.

2. Under the current Rule 16 Scheduling Order, Plaintiff's expert designation was due on February 1, 2007. Plaintiff timely filed its Designation of Experts at that time.

3. Plaintiff needs leave of court to identify additional expert witnesses. Plaintiff's treating physicians have first hand knowledge and information relating to Plaintiff's condition and treatment. Unfortunately, and surprisingly, two of said physicians have indicated a reluctance to testify in any way in this case. These experts had not previously indicated this reluctance, and it has come as a significant surprise to Plaintiff. As a consequence, Plaintiff has not been able to provide detailed reports of these treating doctors.

4. One of Plaintiff's doctors, Dr. Toby Samo, was not identified specifically, but only generally in the identification of treating doctors as having been a doctor from Kelsey Seybold clinic. Plaintiff needs leave of court to late designate this treating doctor.

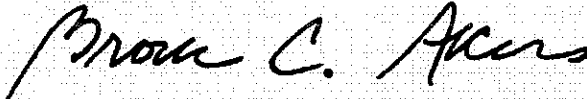
5. Defendant has recently designated an expert to suggest that there was no violation of standards and rules relating to hygiene at the Regis salon at the Las Vegas Casino. Previously, all indications through discovery had been that the violation of procedure was not contested. Clearly, that is not the case given Plaintiff's expert designation. Plaintiff has located an expert, Dr. Robert Spalding, one of the nation's leading experts on the issues and complications of lack of proper procedures relating to pedicures. Plaintiff needs to identify this witness late.

6. No prejudice would befall Defendant by granting Plaintiff this extension. This is a difficult and unusual case, involving significant injuries to Plaintiff, an AIDs victim whose health is forever to be an issue. It is further complicated in that the tort was committed in a distant state. There is nothing pressing or of significance in this case that will adversely affect Defendant. Plaintiff on the other hand, needs grace from the designation dates and deadlines, so that he may completely comply with the court's rules and requirements, and so that Plaintiff will be able to fairly and adequately present his case at trial.

WHEREFORE, PREMISES CONSIDERED, Plaintiff Charles St. John respectfully prays that this court extend Plaintiff's designation date be extended to April 30, 2007

Respectfully submitted,

PHILLIPS & AKERS, P.C.

By: 

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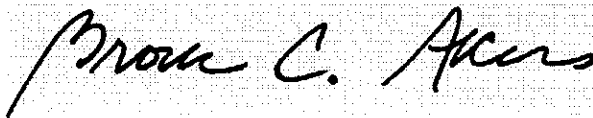
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**CERTIFICATE OF CONFERENCE**

I hereby certify that the above and foregoing Motion was sent to opposing counsel, and opposing counsel has responded that he will not and cannot agree to the relief requested herein.

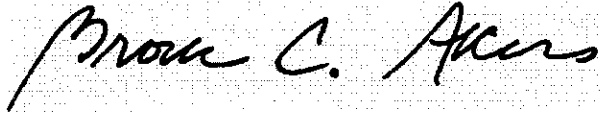


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Brock C. Akers

**CERTIFICATE OF SERVICE**

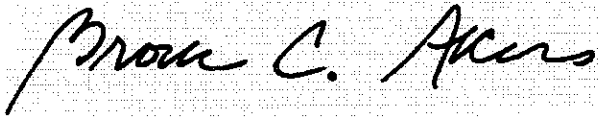
I hereby certify that on this the 21<sup>st</sup> day of March, 2007, a true and correct copy of the above and foregoing document has been forwarded to all counsel of record, pursuant to the Federal Rules of Civil Procedure.

A handwritten signature in black ink, reading "Brock C. Akers", is positioned above a horizontal line.

Brock C. Akers

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 21<sup>st</sup> day of March, 2007, a true and correct copy of the above and foregoing document has been forwarded to all counsel of record, pursuant to the Federal Rules of Civil Procedure.

A handwritten signature in black ink, reading "Brock C. Akers", is positioned above a horizontal line.

Brock C. Akers